REMARKS

The present Amendment is in response to the Office Action made final dated December 3, 2004 in reference to the above-identified application, and is accompanied by a request for reexamination (RCE). The Examiner set a shortened statutory period for reply of three (3) months, making the present Amendment due by March 3, 2005. Filed concurrently herewith is a request for a three-month extension of time so that the present Amendment is due by June 3, 2005.

In the Office Action, pending claims 1-7 and 9-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fahringer '330 in view of Wade et al. '857 and Winnicki '495 or Jolly '497. These claims are also rejected under S103(a) over Fahringer '330 in view of Winnicki '495 or Jolly '497. In each of these rejections, the Examiner maintains that Fahringer '330 teaches all of the claimed features, with the exception of a movable closure disposed on an upstream end portion of the housing.

At the outset the examiner will please note that claim 1(c) adds the recitation that the movable closure is retained in the closed position during evacuation, and that 1(e) no longer contains the language "while maintaining the effective length of said housing,". This feature is instead found in new dependent claim 13 which is part of additional new claims 13-33 presented by this Amendment.

As for independent claim 7, it remains unchanged . Applicant notes that the Examiner's rejections of claim 7 are silent as to the recitation in sub-paragraph (d) that the air is evacuated "through said sidewall at the downstream region of said housing". See also newly presented claims 16, 17

and 24. This is not the case in the primary reference to Fahringer '330. Any such modification, in any event, would not be obvious. Fahringer '330 already provides a mechanism for expelling air out the front end in order to ready the device for actuation. Thus, one would not be inclined to evacuate air through the downstream region since this would not provide a capability (air evacuation) which is absent in Fahringer '330. Based on this reasoning alone, it is submitted that independent claim 7 and its respective dependent claims 9-33 (as well as claim 1's dependent claims 16 & 17) are allowable

Returning momentarily to amended claim 1 and its recitation that the air is evacuated from the housing while retaining the movable closure in the closed position (see also newly claim 26), this would also not be an obvious modification to Fahringer '330. Indeed, regardless whether it would be obvious to incorporate a movable closure into the device of Fahringer '330, it would disrupt the operation of Fahringer's device were the movable closure retained closed during evacuation. Were such a feature incorporated into Fahringer '330, air could not escape the front end 19 (as necessary) upon compression of bellows 12. It is, therefore, submitted that independent claim 1 and it's respective dependents 2-6 & 13-23 (as well as dependent claim 25) are also allowable on this basis.

The Examiner will also note other features in the newly presented claims. For example, as concerns the movable closure, claims 14 and 27 recite that it is mechanically retained in the closed position during evacuation. Applicant maintains that such a feature is not fully and fairly taught by Winnicki (which discloses deflectable fingers 86), or Wade '857 (which

discloses an elastomer flap closure member 26), or Jolly '497 (which teaches inwardly pointing hairs).

Dependent claims 15 and 28 pertain to the movable closure being restricted from outward movement, yet adapted to move inwardly in the downstream direction as it assumes the open position. In other words, the movable closure is a one way device, such as representatively shown by the trap doors in one embodiment of the present invention. This feature is advantageous because the inability of the movable closure to move outwardly lessens the chance of startling an insect which is in close proximity to the upper end, or disrupting the ability to capture the insect, or risking escape of previously captured insects. Advantageously also, as the compression chamber is compressed to prepare the device for triggering, any air which is not evacuated through the downstream end would not open the movable closure but instead urge it to close more securely.

Incorporating a movable closure which is restricted from outward movement would not be an obvious modification to Fahringer '330 because it would likely prevent compression of the bellows, at least to the extent necessary to ready Fahringer's device for actuation.

New dependent claims 18 and 29 entail allowing the insect's movement within the upstream region to be unconstrained after capture. This is certainly not present in Fahringer '330 which has it's trap 18 lined with a tacky interior surface 20 for the obvious purpose of preventing movement of the captured insects. In Fahringer, the tacky surface presumably also prevents captured insects from escaping as air is evacuated through the front end 19 in preparation for triggering -- hence the absence of (and lack of need

for) a movable closure in Fahringer. By not constraining the movement of captured insects, the present invention not only allows for the insects to be captured and observed but it allows them to be released into the atmosphere without harm so that the device, unlike Fahringer's, can be reusable without having to dispose of the front end. These advantages can also be appreciated with reference to newly presented dependent claims 19-21 and 30-32.

Finally, the Examiner will note that new claims 23 and 33 recite that the compression chamber is maintained in the compressed position by mechanically coupling it to a triggering assembly to define an engaged state for the triggering assembly. In Fahringer there is no mechanical coupling of the bellows to the trigger.

Applicant maintains that neither this claim nor any other newly presented claim discussed above adds any new matter to the present application. Due to this Amendment, a new filing fee calculation is provided, as follows:

Maximum Total Claims This Amendment		Total Claims Previously Paid For	
33	-	12	= 21 x $ 25.00 = $525.00

Total Independent Claims Per This Amendment		Maximum Independent Claims Previously Paid For	
2	-	2	= 0 x $100.00 = $0
		Additional Filing Fee Due	$525.00

Accordingly, our check no. 18865 in the amount of $525.00 is enclosed. The Commissioner is hereby authorized to charge any deficiency in the payment

of the required fee(s) or credit any overpayment to Deposit Account No. 13-1940.

Based on the foregoing, Applicant submit that the present application is in complete condition for allowance, and action to that end is courteously solicited. If any issues remain to be resolved prior to the granting of this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the telephone number listed below.

Respectfully submitted,

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CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that the foregoing ***TRANSMITTAL OF RCE FORM PTO/SB/30 (1 page), CHECK NO. 18866 IN THE AMOUNT OF $395.00, AMENDMENT (12 pages), CHECK NO. 18865 IN THE AMOUNT OF $525.00, REQUEST FOR THREE-MONTH EXTENSION OF TIME (2 pages) AND CHECK NO. 18864 IN THE AMOUNT OF $510.00*** is being deposited with the United States Postal Service as first-class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3rd day of June, 2005.

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Christy L. Burbank